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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 KEVIN JOSEPH FADER,

9 Plaintiff,

10 v.

11 YOUNG K. SHIN, M.D.,

12 Defendant.

C21-5059 TSZ

ORDER

13 THIS MATTER comes before the Court on a second Report and Recommendation
14 by the Honorable Theresa L. Fricke, United States Magistrate Judge, docket no. 24, to
15 which no objection has been filed. Plaintiff pro se Kevin Joseph Fader, who is currently
16 incarcerated at Coyote Ridge Corrections Center in Connell, Washington, brought this
17 action against defendant Young K. Shin, M.D. for alleged civil rights violations in
18 connection with the medical treatment he received while in custody at Grays Harbor
19 County Jail. See Am. Compl. (docket no. 6). The Court previously adopted Magistrate
20 Judge Fricke's first Report and Recommendation, docket no. 17, granted defendant's
21 motion brought under Federal Rule of Civil Procedure 12(b)(6), dismissed plaintiff's then
22 operative pleading without prejudice and with leave to amend, and referred the matter
23 back to Magistrate Judge Fricke for further proceedings. See Order (docket no. 20).

Magistrate Judge Fricke set a deadline of October 8, 2021, for plaintiff to file an amended complaint. See Order (docket no. 21). No pleading was timely filed, and defendant filed a motion, docket no. 22, pursuant to Federal Rule of Civil Procedure 41, to dismiss for failure to prosecute.

Having reviewed the relevant portions of the record, the Court ORDERS:

(1) The second Report and Recommendation, docket no. 24, is ADOPTED as follows:

(a) Defendant's Rule 41 motion, docket no. 22, is GRANTED;

(b) No operative pleading having been filed on or before the deadline set by Magistrate Judge Fricke, this action is DISMISSED without prejudice for failure to prosecute;

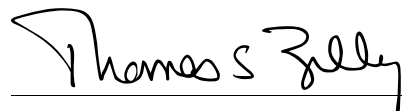
(c) Plaintiff's *in forma pauperis* status shall not continue with respect to any appeal; and

(d) The Clerk is DIRECTED to CLOSE this matter.

(2) The Clerk is further DIRECTED to send a copy of this Order to all counsel of record, to plaintiff pro se, and to Magistrate Judge Fricke.

IT IS SO ORDERED.

Dated this 16th day of December, 2021.



Thomas S. Zilly
United States District Judge